

THE VALUE ADDED TAX ACT, 1997

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THE UNITED REPUBLIC OF TANZANIA



No. 24 OF 1997

I ASSENT,

Benjamin W. Mkapa

President

21st October, '97.

An Act to make provisions for the imposition of a tax to be known as the Value Added Tax (VAT) on Supplies of goods and services and for related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Value Added Tax Act, 1997 and shall come into operation on the 1st day of July, 1998 except for the provisions of Part IV which will come into operation on the 1st day of January, 1998.

Short title
and com-
mence-
ment

2. In this Act, unless the context requires otherwise—

“agent” means a person who acts on behalf of another person in business;

“Appeals Tribunal” means the Value Added Tax Appeals Tribunal established under Section 54;

“authorised officer” means any officer acting under the authority of the Commissioner-General for the purposes of this Act;

“Authority” means the Tanzania Revenue Authority;

“business” includes any form of trade or commercial activity;

“Certificate of registration” means a certificate issued under Section 20 of this Act;

“Commissioner” means a person appointed as such under Section 51;

“Commissioner-General” means the Commissioner-General of the Tanzania Revenue Authority;

Interpre-
tation

- "Company" means a company as defined in the Companies Ordinance;
- "Customs Laws" includes the East African Customs and Transfer Tax Management Act and any enactment relating to the Customs or to the importation, exportation, or carriage coastwise, of goods, and any subsidiary legislation made under the authority of those Acts or those enactments;
- "due date" means the date on which returns are due for lodgement or any tax, penalty, or other amount payable under this Act, or other date prescribed by the Commissioner, for lodgement of returns or payment of tax, penalty or any other amount;
- "exempt supplies" means supplies of goods or services described in the Second Schedule to this Act;
- "gaming machine" means a machine in respect of which the following conditions are satisfied—
- (a) it is constructed or adapted for playing a game of chance by means of it; and
 - (b) a player pays to play the machine (except where he has an opportunity to play without payment as the result of having previously played successfully), either by inserting a coin or token into the machine or in some other way, and
 - (c) the element of chance in the game is provided by means of the machine.
- "Government agency" means any Ministry or Department of Government;
- import" means to bring, or to cause to be brought into Mainland Tanzania;
- "input tax" has the meaning assigned to it under Section 16;
- "Minister" means the Minister responsible for Finance;
- "output tax" means the tax chargeable on a taxable supply;
- "prescribed accounting period" means such accounting period as may be prescribed in Section 26 or by regulations;
- "proper Officer" means any officer whose right or duty is to require the performance of, or to perform, the act referred to him under this Act;
- "public officer" includes every officer vested with responsibilities or performing duties of a public nature, whether under the immediate control of the President or not, and includes an officer under the control of a department of Government, local authority, or public corporation;
- "recipient" in relation to any supply of goods or services, means the person to whom the supply is made;
- "residential buildings" means dwellings built or used to accommodate persons for private and not business purposes;
- "tax" means the Value Added Tax imposed by this Act;

"tax invoice" means a document issued in accordance with Section 29 and regulations made under this Act;

"taxable person" means person registered or required to be registered under the provisions of this Act;

"taxable turnover" means that part of the turnover of a business applicable to taxable supplies;

"taxable supplies" has the meaning assigned to it under Section 5 and does not include exempt supplies;

"Taxable value" means the value of a supply as determined in accordance with Section 13, 14 or 15;

"VAT" means the Value Added Tax imposed by this Act;

PART II

IMPOSITION OF AND LIABILITY TO VALUE ADDED TAX

3.—(1) There shall be charged in accordance with the provisions of this Act, a tax known as the Value Added Tax on the supply of goods and services in Mainland Tanzania and on the importation of goods or services from any place outside Mainland Tanzania made on and after the 1st day of July, 1998.

Imposition of VAT

(2) Where in respect of any taxable supply the tax has been paid in Tanzania Zanzibar pursuant to the law for the time being in force in Tanzania Zanzibar at the same rate as the rate applicable in Mainland Tanzania, the tax shall be deemed to have been paid on the taxable supply in accordance with the provisions of this Act and no tax shall be payable on its importation to Mainland Tanzania.

(3) Where in respect of any taxable supply, the tax has been paid in Tanzania Zanzibar at the rate lower than the rate applicable in Mainland Tanzania under this Act, the tax difference shall be deemed to have not been paid and shall be payable on its importation to Mainland Tanzania in accordance with the provisions of this Act.

(4) Where in respect of any taxable supply, the supply is made directly by a taxable person in Mainland Tanzania to a recipient in Tanzania Zanzibar, the Authority shall collect the tax on behalf of the Tanzania Zanzibar Treasury and remit it to the Tanzania Zanzibar Treasury.

4.—(1) The VAT shall be charged on any supply of goods or services in Mainland Tanzania where it is a taxable supply made by a taxable person in the course of or in furtherance of any business carried on by him.

Scope of VAT

(2) The VAT on a taxable supply of goods or services shall be payable by a taxable person at the end of a prescribed accounting period or at any time which the Commissioner may prescribe.

(3) The VAT on the importation of taxable goods or services from any place outside Mainland Tanzania shall be charged and payable in accordance with this Act and the procedures applicable under the Customs Laws for imported goods shall apply in respect of VAT imports.

Taxable
Supplies

5.—(1) For the purpose of this Act, and unless otherwise provided in this Act or regulations made under it, “taxable supplies” means any supply of goods or services made by a taxable person in the course of or in furtherance of his business after the start of the VAT and includes—

- (a) the acceptance of a wager or stake in any form of betting or gaming including lotteries, bingo, and gaming machines;
- (b) the making of gifts or loans of goods;
- (c) the leasing or letting of goods on hire;
- (d) the appropriation of goods for personal use or consumption by the taxable person or by any other person;
- (e) barter trade and exchange of goods.

(2) Where a person produces goods by processing or treating the goods of another person the supply shall be regarded as a supply of goods.

(3) The supply of any form of power, heat, or ventilation shall be regarded as a supply of goods.

(4) Unless otherwise provided in this Act or regulations made thereunder, anything which is not a supply of goods, but is done for a consideration, including the granting, assignment or surrender of all or part of any right is a supply of services.

(5) The Minister may make regulations providing for any description of transaction to be treated as:—

- (a) a supply of goods; or
- (b) a supply of services; or
- (c) neither a supply of goods nor a supply of services.

(6) Where—

- (a) goods are neither supplied by a person to another person nor incorporated in other goods produced in the course of the business of the first person but are used by that person for the purpose of furtherance of his business; or
- (b) a person in the course of his business does anything for the purpose of furtherance of his business which is not a supply of services but, if done for a consideration, would be a supply of services;

the goods or services are regarded for the purposes of this Act as being both supplied to him for the purpose of the business and supplied by him in the course of that business.

Time of
supply

6.—(1) For the purposes of this Act the time goods or services are supplied shall be when—

- (a) goods are removed from the premises of the supplier, or from other premises where the goods are under his control, or goods are made available to the person to whom they are supplied; or
- when services are rendered or performed; or

- (b) a tax invoice is issued in respect of the supply; or
 - (c) payment is received for all or part of the supply,
- whichever time shall be the earliest.

(2) Where, in respect of any supply referred to in sub-section (1), payment is received or a tax invoice is issued in respect of part of a supply, paragraph (b) or (c) of that sub-section shall apply to that part of the supply, and the tax on it shall be paid accordingly.

(3) Where supplies are measured by meter the time of supply shall be the date of the first meter reading following the introduction of VAT and subsequently at the time of each meter reading, except to the extent that a tax invoice is issued or payment is made in respect of the supply.

(4) VAT on imported goods shall be charged and payable at the time custom duty, tax or levy is payable in accordance with the Customs Law.

7.—(1) This section shall apply for determining whether goods or services are supplied in Mainland Tanzania. Place of supply

(2) Goods shall be regarded—

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

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

(4) Services shall be regarded as supplied in Mainland Tanzania if the supplier of the services—

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

8.—(1) VAT shall be charged at the rate of twenty (20) per centum of the taxable value. Rate of VAT

(2) The Minister may vary the rate of tax prescribed in sub-section (1) under the procedures contained in the Provisional Collection of Taxes and Duties Act, 1963.

Zero-rat-
ing

9.—(1) A supply of goods or services is zero-rated by virtue of this sub-section if the supply is of a description specified in the First Schedule to this Act.

(2) Where a taxable person supplies goods or services and the supply is zero-rated no VAT shall be charged on the supply, but it shall in all other respects be treated as a taxable supply.

Exemp-
tions

10.—(1) A supply of goods or services is an exempt supply if it is of a description specified in the Second Schedule to this Act.

(2) The VAT is not chargeable on an exempt supply, and deduction or credit of input tax is not allowable on purchases made in respect of the exempt supply.

Special re-
liefs

11. The persons and organisations listed in the Third Schedule to this Act shall be entitled to relief from VAT within the limits and conditions prescribed in that Schedule.

12. The Minister may after consultation with the Authority by order published in the *Gazette*, amend, vary, add to or replace the Schedule to this Act.

Taxable
value

13.—(1) Subject to the provisions of this Act, the value on which VAT shall be chargeable on a taxable supply shall be—

- (a) where a supply is for a monetary consideration the amount of the consideration excluding the VAT; or
- (b) where the supply is not for a monetary consideration, or is only partly for such a consideration, the open market value excluding the VAT; or
- (c) where the supply is not the only matter to which a consideration in monetary terms relates, the supply shall be deemed to be for such part of the consideration as is properly attributed to it.

(2) For the purposes of paragraph (b) of subsection (1) the “open market value” of a supply means the value which such goods or services would fetch in the ordinary course of business between the supplier and recipient or any other person concerned in the transaction completely independent of each other, and shall be determined on the following assumptions, that is to say:—

- (a) that the supply shall be treated as having been delivered to the recipient at the supplier’s place of business;
- (b) that the recipient will bear freight, insurance, and other costs, charges and expenses incidental to the supply and the delivery of the goods to him;
- (c) that the supplier will bear any duty or tax chargeable in Mainland Tanzania other than the tax payable under this Act; and
- (d) that the value covers the right to use the patent, design or trade mark in respect of the supply.

(3) For the purpose of subsection (2)—

(a) a supply in the open market between a supplier and a recipient independent of each other pre-supposes—

(i) that the value is the sole consideration, and

(ii) that the value is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the supplier or any person associated in any business with him and the recipient, or any person associated in any business with him (other than the relationship created by the transaction of the supply in question), and

(iii) that no part of the proceeds of any subsequent re-supply, use or disposal of the goods will accrue, either directly or indirectly, to the supplier or any person associated in any business with him.

(4) For the purpose of this section two persons shall be deemed to be associated in business with one another if whether directly or indirectly, either of them has any interest in any business or property of the other, or both have a common interest in any business or property, or some other third person has an interest in any business or property of both of them.

(5) Where in the opinion of the Commissioner, by reason of any fraudulent act or omission of any importer, supplier or a recipient, the taxable value of any supply is not the same as the taxable value of a similar supply, the Commissioner may, if he considers it reasonable to do so, assess the taxable value of the supply in accordance with such principles as he may consider reasonable.

14. The value of imported goods or services shall be the "value" declared and determined in accordance with the provisions of the Customs Laws, taking into account the import duty, the excise duty and any other tax or levy payable on the goods or services, otherwise than under this Act.

Taxable
value of
imported
goods or
services

15.—(1) Where a person plays a game of chance by means of a gaming machine, then for the purposes of VAT, but without prejudice to sub-section (2), the amount paid by him to play shall be treated as the consideration for a supply of services to him.

Taxable
Value for
gaming

(2) The value of supplies in any period made in the circumstances described in sub-section (1) shall be determined as if the considerations for the supplies were reduced by an amount equal to the amount (if any) paid or allowed in that period to persons playing successfully, provided that the payment or allowance is not given to the person making the machine available to play or other persons acting on his behalf.

(3) The insertion of a token in a machine shall be treated for the purposes of sub-section (1) as the payment of an amount equal to that

for which the token can be obtained; and the receipt of a token by a person playing successfully shall be treated for the purposes of sub-section (2)—

- (a) if token is of a kind used to play the machine, as the receipt of an amount equal to that for which such that token can be obtained; or
- (b) if the token is not of such a kind but can be exchanged for money as the receipt of an amount equal to that for which it can be exchanged.

(4) In a game of chance, other than by a gaming machine, the value for VAT purposes shall be the amount staked reduced by the amount paid by the person controlling or managing the game or lottery or other game of chance to those who play the game successfully.

PART III

INPUT TAX

Tax de-
ductions
and cre-
dits

16.—(1) The amount of any tax (in this Act referred to as “input tax”) which is:—

- (a) payable in respect of the supply of goods or services supplied to a taxable person during a prescribed accounting period for the purposes of a business carried on or to be carried on by him, and for which the taxable person is registered; and
- (b) paid by a taxable person on the importation, during a prescribed accounting period, of any goods or services used or to be used for the purposes of a business carried on or to be carried on by him, and for which the taxable person is registered; may, so far as not previously deducted and subject to the exceptions contained in or prescribed under this section, be deducted from his tax liability or otherwise credited to him in respect of that prescribed accounting period or a later prescribed accounting period.

(2) Where a taxable person in Mainland Tanzania pays tax to a taxable person in Tanzania Zanzibar in respect of any taxable supply pursuant to the law for the time being in force in Tanzania Zanzibar and then imports the taxable supply into Mainland Tanzania, the tax paid by him in Tanzania Zanzibar in respect of those supplies shall, subject to the requirements of this section, be credited as input tax.

(3) Subject to the exceptions prescribed under this section, the input tax that may be deducted by, or credited to, a taxable person shall be—

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

(4) Input tax shall not be deducted, credited or claimed unless the taxable person, at the time of lodging the return in which the deduction or credit is claimed, is in possession of a tax invoice, or other evidence satisfactory to the Commissioner, relating to the goods or services in respect of which the tax is claimed or, in the case of imported goods such documentary evidence of the payment of tax as the Commissioner may prescribe; and a person claiming input tax in contravention of this section shall, unless he satisfies the court to the contrary, be deemed to have taken steps for the fraudulent recovery of tax in contravention of section (47).

(5) Input tax may not be deducted or credited after a period of one year from the date of the relevant tax invoice or other evidence referred to in subsection (4).

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

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

(7) Without limiting the generality of paragraph (b) of subsection (3), the Minister may for the purposes of that paragraph by regulations—

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

(8) The Minister may make regulations for or with respect to enabling a taxable person who was not registered at the time of supply or payment, to claim, as input tax, tax on the supply to him of goods or services, or paid by him on the importation of goods or services for the purpose of establishing the business for which the taxable person is registered; or in respect of tax on services which were supplied to him for a reason directly associated with the cancellation of his registration.

17.—(1) Any taxable person whose tax liabilities in respect of particular prescribed accounting period are not exhausted by allowable deductions shall, within the time allowed for lodging his tax return for that period, remit the net amount due to the Commissioner-General.

Payment
and re-
payment
of tax

(2) Where, in respect of a particular prescribed accounting period, a taxable person's allowable credits exceed the tax on supplies he has made for the period, the Commissioner-General shall, within thirty days after—

- (a) the due date for lodging of the return for the last prescribed accounting period in the half year or,

(b) receipt of the last outstanding tax return due for any prescribed accounting period falling within that half year; whichever is later, remit to him the amount to which he stands in credit by reason of the excess, subject to the provisions of this Act and in particular the provisions of section 35.

(3) Where a taxable person submits returns for prescribed accounting periods which regularly results in excess credits, he may apply to the Commissioner for refunds to be made on a monthly basis.

(4) Where in respect of a particular prescribed accounting period which shows excess credit, submitted by a taxable person approved under subsection (3) of this section, the Commissioner General shall, within thirty days after:—

(a) the due date for lodging the return for the prescribed accounting period, or

(b) the date of receipt of the return, whichever is the later, remit to him the amount to which he stands in credit, subject to the provisions of this Act and in particular the provisions of Section 35.

(5) Before making repayment under sub-sections (2) and (4) the Commissioner-General shall reduce the amount of repayment by any sum owing to the Authority by the taxable persons, and accordingly by inform the taxable person, in writing.

(6) For the purpose of this section “half year” means any successive period of six calendar months commencing in the month for which a repayment return is first submitted.

(7) For the purposes of sub-section (3) “regularly results in excess credits” means that over a six month period the total input tax credit for the prescribed accounting periods exceeds the total tax charged and paid on supplies.

PART IV

REGISTRATION AND DEREGISTRATION

18. The Commissioner shall maintain a register in which he shall record such particulars of the taxable persons and their businesses and any other information which he may require from taxable persons when applying for registration.

Registra-
tion

19.—(1) Any person whose taxable turnover exceeds, or the person has reason to believe will exceed, the turnover prescribed in regulations made under this section, shall on and after the 1st day of January 1998, make application to be registered within thirty days of becoming liable to make such application.

(2) An application for registration shall be made in the manner and form prescribed in the regulations.

(3) Subject to this part, the Commissioner shall register every applicant for registration who is eligible to be registered under sub-section (1).

(4) Where the Commissioner is satisfied there is good reason to do so, on grounds of national economic interest or for the protection of the revenue, he may register any person, whether or not an application to be registered has been made, regardless of the taxable turnover of the person.

20.—(1) The Commissioner shall issue a taxable person registered under this Act with a Certificate of Registration.

Certificate of registration and Taxpayer Identification Numbers etc.

(2) A certificate of registration issued under this section shall state the name and principal place of business of the taxable person, the date on which the registration takes effect and his Taxpayer Identification Number and his VAT registration number.

(3) A taxable person shall show his Taxpayer Identification Number and his VAT registration number in any return, notice of appeal or other document used for the purposes of this Act; and display his certificate of registration in a conspicuous position at his principal place of business.

(4) The Commissioner shall provide on request sufficient copies of the certificate of registration, clearly marked "copy", for a copy to be displayed at all premises which are part of the business for which the taxable person is registered.

21.—(1) Any person who ceases to be liable to be registered under this Act shall notify the Commissioner in writing within thirty days of ceasing to be liable, and a person failing to do so commits an offence and upon conviction is liable to a fine not exceeding fifty thousand shillings.

Cancellation of registration

(2) If the Commissioner is satisfied that a person is no longer required to be registered he shall, subject to any other conditions prescribed in this Part or in regulations, including the payment of all VAT due under this Act and on stock, cancel the registration with effect from the date of the notification or from any other date which may be determined by the Commissioner and the Commissioner shall notify the person in writing of the date on which the cancellation of the registration takes effect.

(3) Where a person ceases to be taxable, any goods then part of the assets of a business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

- (a) the business is transferred as a going concern to another taxable person; or
- (b) the VAT on the deemed supply does not exceed five thousand shillings.

Business
carried on
in divi-
sions or
branches
or by un-
incorpo-
rated
bodies,
etc.

22.—(1) The registration of a taxable person carrying on a business in several divisions or branches may, if the body corporate so requests and the Commissioner deems fit, be in the names of those divisions or branches.

(2) The Minister may by regulations make provisions for determining by what persons anything required by or under this Act to be done by a person carrying on a business, is to be done where a business is carried on in partnership or by a club, association or organisation the affairs of which are managed by its members or a committee or committees of its members.

(3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation no account shall be taken of any change in its members.

(4) The Minister may by regulations make provisions for persons who carry on a business of a taxable person who has died or become bankrupt or has had his estate sequestrated or has become incapacitated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.

(5) In relation to a company which is a taxable person, the reference in sub-section (4) above to the taxable person having become bankrupt or having had his estate sequestrated or having become incapacitated shall be construed as a reference to its being in liquidation or receivership or to an administration order being in force in relation to it.

Changes
in busi-
ness cir-
cumstan-
ces

23.—(1) The Minister shall prescribe in regulations the circumstances in which a taxable person shall notify the Commissioner of changes in his business activities.

(2) Notification under sub-section (1) shall be made by the taxable person within thirty days of the changes in his business activities.

PART V

ACCOUNTING FOR TAX AND LODGING OF RETURNS

Account-
ing for tax

24. Unless otherwise provided under this Act, a taxable person shall record each supply made and account for tax on it at the time of supply.

Records
and ac-
counts

25.—(1) A taxable person shall keep such records relating to his business as the Minister may by regulations published in the Gazette prescribe.

(2) A taxable person shall keep the records required under sub-section (1) for a period of five years or such longer period which the Commissioner may require in writing, in a particular case.

(3) A taxable person who fails to keep any records required by or under this Act, or who fails to retain them for the time so required commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both the fine and imprisonment.

26.—(1) Every taxable person shall, in respect of each prescribed accounting period, lodge with the Commissioner a tax return, in a form approved by the Commissioner containing any information which the form requires in relation to the supply by and to him of goods or services, the importation of goods, tax deductions or credits and any other matter concerning his business.

Tax re-
turns

(2) For the purposes of this Act, the prescribed accounting period for a taxable person shall be the calendar month containing the effective date of registration and each calendar month after that, unless the Commissioner, by notice in writing, determines another prescribed accounting period for the taxable person.

(3) The return shall be lodged by the last working day of the month after the end of the prescribed accounting period to which it relates or within such other time as the Commissioner may in a particular case determine by notice in writing.

(4) The Minister may prescribe in regulations published in the *Gazette* prescribe other procedures for the completion and lodging of returns.

27.—(1) A taxable person who fails to submit a return or pay tax within the time allowed by or under this Act shall pay a penalty of fifty thousand shillings or one per centum of the tax shown as payable in respect of the prescribed accounting period covered by the return, whichever is the greater and A further penalty of one hundred thousand shillings or two per centum of the tax shown as payable in respect of the prescribed accounting period covered by the return, whichever is the greater, shall be payable for each month or part month thereafter.

Late
lodgement of
returns

(2) A penalty prescribed by this section is payable immediately on receipt of a notice in writing issued by the Commissioner.

(3) The imposition or payment of a penalty under this section does not affect any liability of the person to pay any interest or penalty elsewhere prescribed in this Act.

28.—(1) Where any amount of tax, including any penalties imposed under Section 27, remains unpaid after the due date prescribed in this Act or its regulations interest at the rate prescribed in sub-section (2) shall be payable to the Commissioner on the amount for the time being due and unpaid.

Interest
on over-
due tax
and re-
payment

(2) The rate of interest to be charged under sub-section (1) shall be the commercial bank lending rate of the Central Bank together with a further five per centum per annum.

(3) Interest payable under this section shall, while it remains unpaid, attract interest as if it formed part of the tax unpaid.

(4) Interest payable under this section shall be compounded at the end of each prescribed accounting period, or part of such period, of the taxable person, during which the tax, and any interest due, remains unpaid, unless the Minister prescribes otherwise in regulations.

(5) Where any tax due to be repaid to a taxable person by the Commissioner-General under this Act remains unrefunded after the due date, in accordance with the provision of Section 17(2) and (4) of this Act the Commissioner-General shall pay interest to the taxable person at the commercial bank lending rate for the time being determined by the Central Bank.

Tax in-
voices and
receipts

29.—(1) A taxable person supplying goods or services to another taxable person shall provide him with an invoice (known for the purposes of this Act as a "tax invoice") containing such information about the supply, the supplier, the recipient, and the VAT as the Minister may by regulations published in the *Gazette* prescribe.

(2) where any supply is made to non-registered person, the taxable person shall issue a receipt or similar document for the supply made.

(3) A taxable person who fails to issue a tax invoice or a receipt in accordance with sub-section (1) or (2) commits an offence and upon conviction is liable to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding twelve months, or to both the fine and imprisonment.

Special
methods
of ac-
counting

30.—(1) The Minister may make regulations providing for special methods of accounting for VAT by retailers or other suppliers of goods or services or any description of goods or services as he may deem fit.

(2) Regulations made under this section may also make provision for—

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

PART VI

FAILURE TO PAY VAT

31. Any tax or interest or penalty payable under this Act, may be recovered as civil debt in the court of a Resident Magistrate at the instance of the Commissioner-General.

Recovery
of tax,
penalties,
and in-
terest

32.—(1) Where any tax or interest due from a taxable person remains unpaid, the Commissioner may, by notice in writing, require any other person—

Attach-
ment of
debts

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

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

(2) Upon service of a notice under this section, the money necessary to discharge the tax or interest due from the supplier, is a debt due to the Authority and shall be recoverable at the suit of the Commissioner-General, or any officer authorised by him, in any court of a Resident Magistrate; and all claim by the taxable person to such money shall be thereby extinguished.

(3) A person on whom a notice under this section has been served and who fails to comply with the notice commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings or ten per centum of the amount demanded by the notice, whichever is the greater.

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

Require-
ment to
make
early pay-
ment

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

34.—(1) Subject to Section 55(2), if—

- (a) after an appeal any tax or interest due from a taxable person remains unpaid, or

Recovery
of debts
by distress

- (b) a taxable person fails to appeal to Appeals Tribunal within fourteen days after the commissioner notifies him of the tax or interest due from him; or
 - (c) a taxable person refuses without any cause to pay the tax assessed by the commissioner,
- an authorized officer may under warrant by the Commissioner levy distress upon the goods and chattels of that taxable person.
- (2) The officer executing the warrant may, with the assistance of a police officer or any other assistants whom he may consider necessary, at any time between sunrise and sunset, break open any premises of the taxable person.
- (3) The goods and chattels on which distress has been levied under this section shall be kept for ten days either at the premises at which distress was levied or at any other place as the officer executing the warrant may consider appropriate, at the cost of the taxable person.
- (4) If the taxable person does not pay the amount due under this Act, together with the costs under sub-section (3), within the period of ten days mentioned in that sub-section, the goods and chattels shall be sold by public auction.
- (5) The proceeds of a sale under sub-section (4) shall be applied towards payment of those costs and any further costs of, or incidental, to the sale, and the surplus, if any, shall be applied towards payment of the amount due and the balance, if any, shall be paid to the taxable person, after deduction of any further tax or interest by then due from him.
- (6) A taxable person on whose goods and chattels distress has been levied or is to be levied, or any other person, who fraudulently removes and takes away any such goods and chattels to prevent the Commissioner from distraining them or completing the distress so levied, or assists in the same, commits an offence and, upon conviction is liable a fine not exceeding two hundred thousand shillings or three times the value of the goods taken away, whichever is the greater; or imprisonment for a term not less than three months but not exceeding twelve months; or to both the fine and imprisonment.

PART VII

ENFORCEMENT

Security

35. Where the Commissioner believes there is a risk to the revenue he may, as a condition of allowing or repaying input tax, require a taxable person to produce any documents relating to the input tax that were supplied to the taxable person; or to give security or further security of such amount and kind which the Commissioner may determine before allowing any deduction or repayment of the input tax.

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

Taking of
samples

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

(3) Where a sample taken under this section is not returned, within a reasonable time and in the same condition as when sampled, to the person from whom it was taken, the Commissioner shall refund to him, by way of compensation, a sum equal to the cost of the sample to him or any larger sum which the Commissioner may determine.

37.—(1) Every person who is concerned in whatever capacity in the supply of goods or services in the course or furtherance of a business or to whom that supply is made, and every person who is concerned in whatever capacity in the importation of goods from a place outside Mainland Tanzania in the course or furtherance of a business shall—

Furnish-
ing of in-
formation
and pro-
duction of
docu-
ments.

- (a) furnish to the Commissioner, within such time and in such form as he may reasonably require, any information relating to the goods or services or to the supply or importation as the Commissioner may reasonably specify; and
- (b) upon demand made by an authorised officer, produce or cause to be produced for inspection by that person—
 - (i) at the principal place of business of the person upon whom the demand is made or at any other place as the authorised officer may reasonably require, and
 - (ii) at such time which the authorised officer may reasonably require any documents relating to the goods or services or to the supply or importation.

(2) Where, by virtue of sub-section (1) above, an authorised officer has power to require the production of any documents from any person as is referred to in that sub-section, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) For the purposes of this section, the documents relating to the supply of goods or services, or to the importation of goods, shall be taken to include any profit and loss account and balance sheet or any other book of account, and any correspondence or other writing, relating to the business in the course of which the goods or service are supplied or imported.

(4) An authorised officer may take copies of, or make extracts from, any document produce under sub-section (1) or (2).

(5) Where it appears to the authorised officer to be necessary he may, at a reasonable time and for a reasonable period, remove any document produced under sub-section (1) or (2) and shall provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-section (3) the removal of the document under this sub-section shall not be regarded as breaking the lien.

(6) Where a document removed by an authorised officer under sub-section (5) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

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

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

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

Access to
official in-
formation

38. Notwithstanding any provision of other existing Law, where the Commissioner considers it necessary for the performance of his functions under this Act, he may by notice in writing require any public officer—

- (a) to permit an authorised officer to examine all registers, books, accounts, documents or records in the possession or control of the public officer and to take any notes and extracts which may be considered necessary by the Commissioner; and
- (b) to supply any information to the authorised officer.

Power to
enter, in-
spect, etc.

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

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

- (a) take with him any persons who appear to him to be necessary for its due execution;
 - (b) search, seize and remove any goods, documents or other things found on the premises which he has reason to believe to be evidence for the purpose of proceedings in connection with that offence or for the assessment of any tax; and
 - (c) search or cause to be searched any person found on the premises who he has reason to believe has committed that offence or to be in possession of the goods, documents or other things;
- provided that no person shall be searched by a person of the opposite sex.

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

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

(5) The provisions of Section 37 relating to documents and to the electronic storage of documents shall apply in respect of the exercise by an authorised officer of a power conferred under this section.

40. A person who—

- (a) fails to comply with any requirements made of him under Section 37, 38 or 39; or
- (b) assaults, obstructs, hinders or resists an officer in the exercise or performance of any of his powers or duties under this Act, commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not less than three months but not exceeding two years, or to both the fine and imprisonment

Obstruction of an officer

41. A person who impersonates an officer commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not less than three months but not exceeding five years, or to both the fine and imprisonment.

Impersonation of an officer

42. Notwithstanding the provisions of any other law, no action or other proceeding shall lie or be instituted against any member or officer of the Authority for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions and powers conferred by or under this Act.

"Limitation of liability of officers and staff

43.—(1) Where, in the opinion of the Commissioner, a taxable person has failed to pay any of the tax payable by him by reason of—

Assessment of tax

- (a) his failure to keep proper books of account, records or documents as required under this Act, or the incorrectness or inadequacy of the books, records or documents; or
- (b) his failure to make, or delay in making, any return required under this Act or the incorrectness or inadequacy of any returns;

the Commissioner may assess the tax due and any interest payable on that tax and that interest shall be due for payment within one month of the date of the assessment, unless a longer period is allowed by the Commissioner or elsewhere in this Act.

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

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

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

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

PART VIII

OFFENCES AND PENALTIES

Failure to
register,
etc

44.—(1) Any person who—

- (a) being required to apply for registration under this Act fails to do so within thirty days after becoming liable to apply; or
- (b) contravenes any term or condition of his registration; or
- (c) holds himself out as being a taxable person when he is not; commits an offence and upon conviction is liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not less than two months but not exceeding twelve months, or to both the fine and imprisonment.

(2) Notwithstanding any penalties which may be imposed on a person failing to apply for registration, and any arrears of tax due to be paid, the person shall be liable to pay interest on the arrears in accordance with Section 28.

(3) A taxable person who fails to notify the Commissioner of any change in business circumstances under Section 23 of this Act within thirty days of becoming liable to do so commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings.

45. Any taxable person who fails to submit a return or pay tax by the due date commits an offence and upon conviction is liable to pay a fine not exceeding two hundred thousand shillings or to imprisonment for a term not less than two months but not more than twelve months, or to both the fine and imprisonment.

Failure to
pay tax or
lodge re-
turn

46. Any person who, in purported compliance with any requirement under this Act, makes a return or other declaration, furnishes any document or information or makes any statement, whether in writing or otherwise, that is false in any material particular commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not less than three months but not exceeding two year, or to both the fine and imprisonment.

False re-
turns and
state-
ments

47.—(1) Any person who is concerned in fraud, or takes steps with a view to, fraudulently evade tax or with a view to fraudulently recover of tax, commits an offence and upon conviction shall pay the tax which would have been paid had the offence not been committed and in addition shall pay a fine of two million shillings and be imprisoned for a term of two years.

Fraudu-
lent eva-
sion or re-
covery

(2) A person who deals in or accepts the supply or importation of any goods, or the supply of any services, and having reason to believe that the proper tax has not been or will not be paid or that any deduction or credit has been or will falsely be claimed in relation to it, commits an offence and upon conviction is liable to a fine not exceeding one million shillings or six times the amount of the tax evaded; whichever is greater, or to imprisonment for a term not less than six months but not exceeding three years, or to both the fine and imprisonment.

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

48.—(1) If a person alleged to have committed an offence under this Act agrees in writing to pay a fine determined by the Commissioner which does not exceed the maximum fine provided by this Act for the offence, the Commissioner may compound the offence and impose the fine, provided that, if criminal proceedings have been instituted against the alleged offender for such offence, the power conferred by this subsection shall not be exercised without the written consent of the Director of Public Prosecutions.

Com-
pounding
of of-
fences

(2) A person accepting a fine under sub-section (1) shall be provided by the Commissioner with a certificate setting out the nature of the offence, the date or period of its occurrence, the fine paid, and any conditions to the compounding agreement.

(3) If the fine imposed under sub-section (1) is not paid on demand the Commissioner may institute court proceedings or may take steps for recovery of the fine in any manner permitted by this Act for the recovery of unpaid tax.

(4) The imposition of a fine under sub-section (1) shall not be regarded as conviction for the alleged offence and, provided the fine is paid in full, no prosecution for the alleged offence shall be instituted or maintained.

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

Detention
of goods

49.—(1) Where there is reason to believe that VAT has been fraudulently evaded or claimed or deducted the goods concerned may be taken from the possession of any person involved in the suspected offence and detained by the Commissioner pending the outcome of his inquiries or the completion of offence proceedings.

(2) A receipt listing any item detained shall be provided.

(3) The person from whom the goods are taken under sub-section (1) may appeal against the detention or continuing detention to an Appeals Tribunal.

Offence
by body
corporate

50. Where any offence under this Act or any regulations made under it has been committed by a body of persons, whether corporate or unincorporate, any person who, at the time of the commission of the offence, was concerned with the management of the affairs of the body of person as director, partner, agent or an officer, shall be guilty of the offence.

PART IX

ADMINISTRATION

51.—(1) There shall be appointed a Commissioner for Value Added Tax and such other officers as may be necessary for carrying out the purposes of this Act.

Functions,
spon-
sibilities,
and powers
of the
Commis-
sioner-
General,
and Com-
missioner

(2) The Commissioner shall be responsible to the Commission-General for the administration, collection, repayment and accounting for VAT, penalties and all other sums payable under this Act; and subject to the direction and control of the Commissioner General, may exercise and perform the powers and functions conferred on him by or under this Act.

(3) The Commissioner-General shall maintain a separate bank account from which repayments under Part III shall be made and shall ensure that sufficient funds are in that account to make repayments to taxable person by the date prescribed in this Act.

(4) The Commissioner may, subject to such conditions or restrictions as he thinks fit, delegate to any officer or other person employed in the administration of this Act all or any of the powers, functions and duties vested in him by this Act.

(5) An officer shall, on demand, produce such documents establishing his identity as may be approved by the Commissioner-General.

(6) The provisions of Section 7 of the Tanzania Revenue Authority Act, 1995 shall apply to the Commissioner and other officers in performance of their duties under this Act.

52.—(1) For the purposes of this Act an officer shall have the right to request the protection of a police officer if he has reason to believe that protection to be necessary for the proper and safe performance of his duties.

Au-
thorised
officers to
have pro-
tection of
police
officers,
and power
of arrest

(2) An officer may arrest an individual he has reason to believe to have committed an offence under Section 41, 46 or 47 or whom the officer believes may abscond before he is charged or stands trial or may destroy or tamper with evidence of an offence.

53. Notwithstanding the provisions of this Act, an authorised officer may exercise all the powers exercised by the officer in-charge of provided in Customs Laws in respect of imported and export goods.

Powers in
respect of
imported
and ex-
port
goods

PART X

APPEALS

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

Tax Ap-
peals Tri-
bunal

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

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

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

(5) There shall be a Registrar of the Appeals Tribunal, who shall have such functions which may be conferred on him by regulations made under subsection (6).

(6) The Minister may, by regulation—

(a) prescribe the requisite qualifications or experience for appointment as a member of the Appeals Tribunal;

- (b) regulate the organisation, administration and procedure of the Appeals Tribunal; and
- (c) empower the Appeals Tribunal to summon and compel the attendance of witnesses, to require the production of documents, to award costs and to do and require all other matters and things which may be necessary, in the opinion of the Minister, for the due performance of its functions.

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

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

Appeals
to Tri-
bunal

55.—(1) Any person aggrieved by a decision or determination made by the Commissioner under this Act, in respect of—

- (a) the registration or cancellation of registration of, or a refusal to register, a taxable person;
- (b) the tax assessed to be payable on any supply of goods or services or the importation of any goods;
- (c) the amount of any input tax that may be credited to any taxable person;
- (d) the apportionment or disallowance of input tax;
- (e) the detention of goods under Section 49;
- (f) any matter prescribed by the Minister, by regulation, to be a matter against which an appeal shall lie under this section;

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

(2) No appeal shall be heard unless—

- (a) any and all tax returns required under this Act to be made by the appellant at the time the appeal is lodged have by that time been made; and
- (b) where the appeal is against an assessment of the commissioner or otherwise involves a dispute over an amount of tax or interest allegedly due and unpaid by the appellant, then—
 - (i) if a part of the amount assessed is disputed, the whole of the undisputed amount; or
 - (ii) if the whole of the amount assessed is disputed, half of the amount disputed,
is deposited with the Appeals Tribunal.

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

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

Determination of appeals

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

(3) Interest shall be paid by the Authority, at the interest rate prescribed in Section 28 (5), in respect of the whole or part of any month during which a deposit was lodged by the applicant as a condition of the hearing of the appeal, to the extent to which that deposit exceeded any amount recovered against the appellant.

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

PART XI

MISCELLANEOUS

57. Any amount shown on an invoice, a receipt, or similar document, as VAT chargeable on a supply of goods or services shall be recoverable as VAT due from the person issuing the invoice, regardless as whether:—

Tax shown on an invoice

- (a) the invoice is a tax invoice as prescribed in the Act;
- (b) tax is chargeable in respect of the supply to which the invoice relates; or
- (c) the person issuing the invoice is a taxable person.

58.—(1) Where goods are imported from a place outside Mainland Tanzania by a taxable person who supplies them as agent for a person who is not a taxable person, the goods may be treated for the purposes of this Act as imported and supplied by the taxable person as principal.

Agents

(2) For the purposes of subsection (1) above a person who is not resident in Mainland Tanzania and whose place or principal place of business is outside Mainland Tanzania may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.

(3) Where goods or services are supplied through an agent who acts in his own name the Commissioner may, if he thinks fit, treat the supply both as a supply to the agent and as a supply by the agent.

59.—(1) Where a taxable person does not have a business establishment in Mainland Tanzania or, in the case of an individual or partnership, does not have a usual place or residence in Mainland Tanzania, the Commissioner may request the taxable person to appoint another person resident in Mainland Tanzania to act on his behalf in matters relating to tax.

VAT representatives

(2) If the Commissioner accepts the appointment of a tax representative, any liability of the taxable person under the Act other than any liability subsisting before his appointment including any liability—

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

shall, on and from his appointment, and without affecting the liability of the taxable person, subsist to the like extent and severally against the representative until such time as the Commissioner accepts appointment.

Supplies
by bank-
rupt or
deceased,
etc.

60.—(1) Where, by reason of death, bankruptcy, winding-up or other legal process in respect of a taxable person whether individual or corporate, the property or control of a business carried on by the taxable person and in respect of which the taxable person is registered is vested in another person, the provisions of the Act and of any regulations made under it shall, on such vesting and for as long as that other person is in control apply to him as if he were the taxable person.

(2) A person carrying on or controlling the business of a taxable person in the circumstances referred to in sub-section (1) shall notify the Commissioner in writing of that fact, giving full particulars of the circumstances in which control of the business concerned passed from the taxable person to him.

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

(4) A person who fails to give notice as required by this section commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings.

Transfer
of a going
concern

61.—(1) Where a business or part of a business is assigned ("transferred"), then for the purpose of determining whether the transferee is liable to be registered, the taxable turnover of the business or part transferred shall be added to the turnover of any business carried on by the person to whom the business or part of the business is transferred ("the transferee").

(2) Any liability other than criminal liability of a person transferring a business or part of business shall on and from the date of the transfer, pass to the transferee without affecting the liability of the transferor and such liability shall include the liability—

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

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

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

(5) Any person who fails to notify the Commissioner of the fact of a transfer within thirty days after it takes effect commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings.

62.—(1) Any person making or publishing an advertisement in respect of the supply of any goods or services shall, if the advertisement mentions the price at which such goods or services may be obtained, state the price inclusive of tax.

Adver-
tised
prices to
include
VAT

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

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

- (a) there is a change in the tax charged on the supply; or
- (b) tax chargeable on the supply is introduced or abolished;

Tax ad-
justments
of con-
tracts

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

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

Priority of
VAT
debts in
ban-
kruptcy.

65. A certificate of the Commissioner that—

- (a) a person was or was not, at any date, registered;
- (b) any return required under this Act to be lodged has not been lodged or has not, on a specified date, been lodged; or
- (c) any tax shown as due in any return or assessment lodged or made under this Act has not been paid:

Evidence
by certifi-
cate.

shall be sufficient evidence of that fact in any court of competent jurisdiction until the contrary is proved.

Schemes
for ob-
taining
undue tax
benefits

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

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

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

(2) A determination under subsection (1) shall be deemed to be an assessment, and the provisions of Section 43 and any other provision made by or under this Act in relation to assessments, shall apply accordingly.

(3) In this section “bona fide business purposes” does not include the obtaining of a benefit and “tax benefit” includes—

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

Service of
notices,
etc

67.—(1) Any notice, notification, requirement or demand to be served on, given to, or made of any person for the purposes of this Act may be served, given, or made by sending it by post or leaving it on the premises addressed to that person or his VAT representative at the last or usual residence or place of business, of that person or representative, or in the case of a company to its registered office.

(2) Delivery by post shall be deemed to have been made ten days after the date of posting.

Regula-
tions

68. The Minister may make regulations where he is required or permitted by the Act, and where it is necessary or expedient to make regulations for carrying out or giving effect to this Act.

69. Where any VAT not due to the Commissioner-General under this Act is paid to him, or VAT due is not charged and paid by a taxable person, because of misunderstanding arising from incorrect or misleading advice by an officer, the Commissioner-General may repay or remit the VAT.

Repay-
ments and
remis-
sions

70.—(1) The Minister may make regulations providing for the repayment in prescribed conditions and circumstances of sales tax paid by taxable persons prior to the commencement of VAT on goods still in stock on the commencement day.

Transi-
tional ar-
range-
ments

(2) Subject to their regulations made under this Act, and notwithstanding the repeal of the Sales Tax Act, 1976, the sales tax paid on goods in stock of a taxable person before the coming into operation of this Act, shall be deemed to be the input tax.

(3) The procedure for determining and allowing the sales tax paid on stock to be an input tax shall be provided for in the regulations to be made by the Minister.

71.—(1) The Sales Tax Act, 1976 is hereby repealed.

(2) The repeal of the Sales Tax Act, 1976, shall not affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal or affect any duty, obligation, liability or burden of proof imposed, created or incurred prior to the repeal or affect any investigations, legal proceeding or remedy in respect of any right, interest, power, privilege, duty, obligation, liability or otherwise.

Repeals
and Sav-
ings.
Act No.
13 of 1976

72. The Hotel Levy Act, 1972 is amended by adding immediately after Section 3 the following provision:

Amend-
ment of
the Hotel
Levy.
Act Act
No. 23 of
1972

"Exemp-
tion of
VAT re-
gistered
person

3A. No hotel levy shall, on the coming into operation of the Value Added Tax Act, 1997, be charged on any person who or body of persons which has been registered under Part IV of the VAT Act.

73. The Entertainment Tax Act, 1970 is amended by adding immediately after section 7, the following provision:

Amend-
ment of
the Enter-
tainment
Tax Act,
1970.
Act No.
21 of 1970

Exemp-
tion of
VAT re-
gistered
person

7A. Every person who or a body of persons which has been registered under Part IV of the Value Added Tax Act, 1997, shall on the coming into operation of that Act be exempted from paying tax under this Act.

Amendment of
the Stamp
Duty Act.
Act No.
32 of 1972

74. The Stamp Duty Act, 1972 is amended in the Schedule by adding in item 51 the following item:

“(g) by any person or body of persons, registered under Part IV of the VAT Act, 1997, from the imposition date of VAT.”

FIRST SCHEDULE

(Section 9)

ZERO-RATED SUPPLIES

1. Exportation of goods and taxable services from the United Republic of Tanzania, provided evidence of exportation is produced to the satisfaction of the Commissioner.
2. The supply of goods, including food and beverages, for consumption or duty free sale on aircraft or ships on journeys to destinations outside the United Republic of Tanzania.
3. For the purposes of this Schedule, goods or services are treated as exported from the United Republic of Tanzania if—
 - (a) in the case of goods, the goods are delivered to, or made available at an address outside the United Republic of Tanzania as evidenced by documentary proof acceptable to the Commissioner;
 - (b) in the case of services, the service is supplied for use or consumption outside the United Republic of Tanzania as evidenced by documentary proof acceptable by the Commissioner.

SECOND SCHEDULE

(Section 10)

EXEMPT SUPPLIES AND IMPORTS

1. Food and livestock supplies

- (1) Livestock—live cattle, swine, sheep, goats, game, poultry and other animals of a kind generally used for human consumption.
- (2) Animal products—unprocessed edible meat and offal of cattle, swine, sheep, goats, game and poultry (including eggs), except—
pate, fatty livers of geese or ducks and any other product prescribed by the Minister by regulation.
- (3) Dairy products—cow's or goat's milk.
- (4) Fish—all unprocessed fish, except shellfish, and ornamental fish.
- (5) agricultural products—fresh edible vegetables, fruits and nuts and the bulbs, tubers, seeds and plants thereof; maize, wheat and other cereals; meal and flours.

Notes: 1. For the purposes of this item goods shall be regarded as “unprocessed” if they have undergone only simple processes of preparation or preservation such as freezing, chilling, drying, salting, smoking, stripping or polishing.

- 2 None of the above can be exempted when they are supplied in the course of catering by a restaurant, cafeteria, canteen or like establishment.

2. Pesticides, fertilizers etc.

The supply of fertilizers, pesticides, insecticides, fungicides, rodenticides, herbicides, anti-sprouting products, and plant growth regulators, and similar products.

3. Health supplies

(1) The supply of health and medical services by a registered medical practitioner, optician, dentist, hospital or clinic.

(2) The supply of medicines and drugs listed in the National Essential Drugs List issued by the Ministry of Health or in Regulations made by the Minister.

(3) The supply to a registered medical practitioner, optician, dentist, hospital or clinic, or to a patient, of equipment designed solely for medical or prosthetic use.

(4) The supply of articles designed for use by the blind or disabled.

4. Educational Supplies

Educational services provided by an establishment registered by the Government.

5. Veterinary supplies

(1) The supply of veterinary services by a registered veterinary practitioner.

(2) The supply of medicines and drugs by a registered veterinary practitioner in the course of his professional work.

(3) The supply to a registered veterinary practitioner of equipment designed solely for veterinary use.

6. Books and newspapers

(1) Books, booklets, maps and charts.

(2) Newspapers, journals, magazines and periodicals.

7. Transport services

Transportation of persons, by any means of conveyance, but not including tax, cabs, rental cars, boats and air-charterers.

8. Housing and land

(1) The sale or lease of an interest in land.

(2) The sale of used or lease of residential buildings.

Notes: For the purposes of this item "land" does not include any buildings thereon.

9. Financial and insurance services

(1) The provision of insurance services.

(2) The issue, transfer, receipt of or other dealing with money (including foreign exchange) or any note or order for the payment of money.

10. Water

The supply of water, except bottled or canned or similarly presented drinking water.

11. Funeral Services

(1) The transportation and disposal of human remains.

(2) The arrangements for disposal of the remains of the dead.

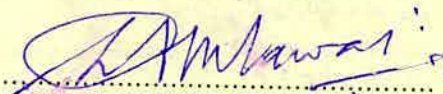
THIRD SCHEDULE

(Section 11)

SPECIAL RELIEFS

1. Goods imported by diplomats or a diplomatic mission that is accredited by the United Republic of Tanzania for the official purposes of that mission, where the foreign country provides reciprocal treatment to diplomats and the diplomatic mission of Tanzania in that country.
2. Supplies or importations of goods or services under a technical aid agreement as far as that agreement provides for relief from the United Republic of Tanzania taxation.
3. Travellers' Personal Effects.—Imported goods in respect of which relief of duty is available under Customs Laws.
4. Supplies to or importation of goods or services for use by the President of the United Republic.
5. Supplies to, or importation of goods or services by the Government or its agencies to be used in the performance of their statutory functions.

Passed in the National Assembly on the 22nd August, 1997


Clerk of the National Assembly