

CHAPTER 148

THE VALUE ADDED TAX ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 148

THE VALUE ADDED TAX ACT

An Act to make provision 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.

[1st July, 1998]

[1st January, 1998]

[1st March, 1998]

[s. 1]

Acts Nos.

24 of 1997

2 of 1998

8 of 1998

10 of 1999

12 of 1999

11 of 2000

15 of 2000

14 of 2001

10 of 2002

18 of 2002

G.Ns. Nos.

24 of 1999

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh148s1]1. Short title Acts Nos. 2 of 1998 Sch.; 8 of 1998 s. 58

This Act may be cited as the Value Added Tax Act.

[PCh148s2]2. Interpretation Acts Nos. 8 of 1998 s. 59; 10 of 1999 Sch.

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;

"Company" means a company as defined in the Companies Act *;

"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 lodgment 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;

"export" has the meaning assigned to it under First Schedule;

"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" means the Government of the United Republic and includes Local Authorities in Mainland Tanzania;

"Government Agency" means any Ministry or Department of the Union Government, Tribunal, specially appointed Commission, extra-Ministerial organ, any Local Government Authority, any organisation designated by an establishing statute to be an agency of the Government or any organisation whose running costs are funded by the 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 of 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 supplies" has the meaning assigned to it under section 5 and does not include exempt supplies;

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

"taxable value" means the value of a supply as determined in accordance with section 13, 14 and 15;

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

PART II

IMPOSITION OF AND LIABILITY TO VALUE ADDED TAX (ss 3-15)

[PCh148s3]3. Imposition of VAT Acts Nos. 8 of 1998 s. 60; 11 of 2000 s. 38

(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.

(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.

(5) The provisions of subsection (4) shall apply to products manufactured in Tanzania Mainland only.

[PCh148s4]4. Scope of VAT

(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.

(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.

[PCh148s5]5. Taxable supplies

(1) For the purpose of this Act, and unless otherwise provided in this Act or regulations made under it, "taxable supplies" means supply of goods or services made by a taxable person in the course 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 purposes of furtherance of his business; or

(b) a person in the course of his business does anything for the purposes 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.

[PCh148s6]6. Time of supply Act No. 8 of 1998 s. 61

(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 to the person to whom they are supplied, or goods are made available to the person to whom they are supplied;

(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;

(d) service is rendered or performed.

(2) Where, in respect of any supply referred to in subsection (1), payment is received or a tax invoice is issued in respect of part of a supply, paragraph (b) or (c) of that subsection 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 unless prescribed otherwise in the regulations made by the Minister.

[PCh148s7]7. Place of supply

(1) This section shall apply for determining whether goods or services are supplied in Mainland Tanzania.

(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;

(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 subsection (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.

[PCh148s8]8. Rate of VAT

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

(2) The Minister may vary the rate of tax prescribed in subsection (1) under the procedures contained in the Provisional Collection of Taxes and Duties as in the Public Finance Act *.

[PCh148s9]9. Zero-rating

(1) A supply of goods or services is zero-rating by virtue of this subsection 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.

[PCh148s10]10. Exemptions

(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.

[PCh148s11]11. Special reliefs Act No. 8 of 1998 s. 62

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 subject to procedures which may be determined by the Minister.

[PCh148s12]12. Amendment of the Schedules

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

[PCh148s13]13. Taxable value

(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 VAT; or

(b) where the supply is not for 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 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 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.

[PCh148s14]14. Taxable value of imported goods or services Act No. 2 of 1998 Sch.

(1) The taxable value of imported goods 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 leave payable on the goods, otherwise than under this Act.

(2) The taxable value of imported services shall be determined in accordance with the provisions of section 13 and rules and regulations made by the Minister for that purpose providing for modalities of charging the tax.

[PCh148s15]15. Repealed

[Repealed by Act No. 14 of 2001 s. 28.]

PART III

INPUT TAX (ss 16-17)

[PCh148s16]16. Tax deductions and credits Act No. 2 of 1998 Sch.

(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 constrained 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, and 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.

[PCh148s17]17. Payment and repayment of tax Acts Nos. 10 of 1999 Sch; 11 of 2000 s. 39

(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.

(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 would regularly result 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 periods which regularly results in excess credits, he may apply to the Commissioner for refunds to be made on a monthly basis—

- (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) No refund in respect of any claim shall be approved unless it is supported by a certificate of genuineness issued by an auditor who has been registered by the National Board of Accountants and Auditors.

(6) Before making repayment under subsections (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 informing the taxable person, in writing.

(7) 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.

(8) For the purpose of subsection (3), the phrase "would regularly result in excess credits" means that over a six months period the total input tax credit for the prescribed accounting periods would exceed the total tax charged and paid on supplies.

PART IV

REGISTRATION AND DEREGISTRATION (ss 18-23)

[PCh148s18]18. Register

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.

[PCh148s19]19. Registration Acts Nos. 8 of 1998 s. 63; 11 of 2000 s. 40; 10 of 2002 s. 6

(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 subsection (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.

(5) The value added tax payable in respect of any capital goods imported, purchased or received by a person registered or not registered shall be deferred.

(6) No person is allowed to use the goods purchased under the provision of subsection (5) for any purpose other than that for which it is intended.

(7) Any person who contravenes subsection (5), commits an offence and upon conviction is liable to pay a fine of two million shillings or to imprisonment for a term of two years and the court shall order the payment of the whole of the tax deferred.

(8) The deferment of tax referred to in subsection (5) shall be subject to such conditions as the Minister may, by regulations prescribe.

[PCh148s20]20. Certificate of Registration and Taxpayer Identification Numbers, etc.

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

(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.

[PCh148s21]21. Cancellation of registration

(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.

(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.

[PCh148s22]22. Business carried on in divisions or branches or by unincorporated bodies, etc. Act No. 2 of 1998 Sch.

(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 name 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 to be treated 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 subsection (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.

[PCh148s23]23. Changes in business circumstances

(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 subsection (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 (ss 24-30)

[PCh148s24]24. Accounting for tax

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.

[PCh148s25]25. Records and accounts

(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 subsection (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.

[PCh148s26]26. Tax returns

(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.

(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.

[PCh148s27]27. Late lodgement of returns

(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.

(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.

[PCh148s28]28. Interest on overdue tax and repayment

(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 subsection (2) shall be payable to the Commissioner on the amount for the time being due and unpaid.

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

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

(4) Interest payable under this section shall be compounded at the end of each prescribed accounting period , or part of such period, of taxable person, during which the tax, and any interest due, remain 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 date, in accordance with the provisions of section 17(2) and (4) of the 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.

[PCh148s29]29. Tax invoices and receipts Act No. 10 of 1999 Sch.

(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”) at the time of supply 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 subsection (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.

[PCh148s30]30. Special methods of accounting

(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 (ss 31-34)

[PCh148s31]31. Recovery of tax, penalties, and interest

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.

[PCh148s32]32. Attachment of debts

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

(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.

[PCh148s33]33. Requirement to make early payment

(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 reasons 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.

(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.

[PCh148s34]34. Recovery of debts by distress Act No. 8 of 1998 s. 64

(1) Subject to section 55(2), if—

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

(b) a taxable person fails to appeal to Appeals Tribunal within ten 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 authorised 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 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 subsection (3), within the period of ten days mentioned in that subsection, the goods and chattels shall be sold by public auction.

(5) The proceeds of a sale under subsection (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 to 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 (ss 35-43)

[PCh148s35]35. Security Act No. 12 of 1999 s. 33.

(1) 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.

(2) Where submission of the documents for verification, or furnishing of a security or further security is required, the Commissioner General shall remit the amount within thirty days from the date on which the documents were submitted or on which a security or further security was furnished.

[PCh148s36]36. Taking of samples

(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 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.

(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.

[PCh148s37]37. Furnishing of information and production of documents

(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—

(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 subsection (1) above, an authorised officer has power to require the production of any documents from any person as is referred to in that subsection, 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 produced under subsection (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 subsection (1) or (2) and shall provide a receipt for any document so removed; and where a lien is claimed on a document produced under subsection (3) the removal of the document under this subsection shall not be regarded as breaking the lien.

(6) Where a document removed by an authorised officer under subsection (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, subsections (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.

[PCh148s38]38. Access to official information Act No. 2 of 1998 Sch.

Notwithstanding any provisions of any other 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.

[PCh148s39]39. Power to enter, inspect, etc. Act No. 2 of 1998 Sch.

(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 it in execution of a warrant under this section a receipt for it.

(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 being 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.

[PCh148s40]40. Obstruction of an officer

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.

[PCh148s41]41. Impersonation of an officer

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.

[PCh148s42]42. Limitation of liability of officers and staff Act No. 8 of 1998 s. 65

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.

[PCh148s43]43. Assessment of tax Acts Nos. 8 of 1998 s. 66; 10 of 1999 Sch.; 10 of 2000 s. 41

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

(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 indecency of any returns,

the Commissioner may assess the tax due and any interest payable on that tax both of which 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 right of appeal conferred by this Act or any other law, any person who disputes any assessment made upon him under this Act may, within thirty days from the day of which the assessment was made, by notice in writing to the Commissioner, object to such assessment.

(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 evidence sufficient to demonstrate that 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 (ss 44-51)

[PCh148s44]44. Failure to register, etc. Act No. 2 of 1998 Sch.

(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, or on 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.

[PCh148s45]45. Failure to pay tax or lodge returns

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.

[PCh148s46]46. False returns and statements Act No. 2 of 1998 Sch.

Any person who, in purported compliance with any requirement under this Act, knowingly 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 years, or to both the fine and imprisonment.

[PCh148s47]47. Fraudulent evasion or recovery

(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.

(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.

[PCh148s48]48. Publication of list of persons who commit offences Act No. 12 of 1999 s. 34

(1) The Commissioner may publish a notice in the Government Gazette or any other newspapers circulating in Tanzania a list of persons who—

- (a) fail to comply with the provisions of section 17(1);
- (b) have been convicted of an offence against sections 45, 46, or 47; or
- (c) have conducted themselves in a like manner which amount to or would an offence referred to under paragraph (b).

(2) Publication of a name of a person in pursuance of subsection (1)(b) or (c) shall be done after any proceedings in respect of appeal or review thereof have been completed or not been instituted within the period provided for.

(3) Every such list may specify—

- (a) the name and address of the person complained of;
- (b) particulars of the conduct complained of;

- (c) tax period during which the conduct complained of occurred;
- (d) the amount of the tax involved;
- (e) the particulars of the fine or sentence imposed.

[s. 47A]

[PCh148s49]49. Compounding of offences

(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.

(2) A person accepting a fine under subsection (1) shall be provided by the Commissioner with a certificate setting out the matter 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 subsection (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 subsection (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.

[s. 48]

[PCh148s50]50. Detention of goods

(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 subsection (1) may appeal against the detention or continuing detention to an Appeals Tribunal.

[s. 49]

[PCh148s51]51. Offence by body corporate

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

[s. 50]

PART IX

ADMINISTRATION (ss 52-54)

[PCh148s52]52. Functions, responsibilities and powers of the Commissioner-General and Commissioner Act No. 2 of 1998 Sch.

(1) There shall be appointed in accordance with the provisions of the Tanzania Revenue Authority Act *, a Commissioner for Value Added Tax and such other officers as may be necessary for carrying out the purposes of this Act.

(2) The Commissioner shall be responsible to the Commissioner-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 the 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 8 of the Tanzania Revenue Authority Act shall apply to the Commissioner and other officers in performance of their duties under this Act.

[s. 51]

[PCh148s53]53. Authorised officers to have protection of police officers, and power of arrest

(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.

(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.

[s. 52]

[PCh148s54]54. Powers in respect of imported and export goods Act No. 8 of 1998
s. 67

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

[s. 53]

PART X

APPEALS (ss 55-57)

[PCh148s55]55.-57. Repealed

[Repealed by Act No. 15 of 2000 s. 37.]

[ss. 54-56]

PART XI

MISCELLANEOUS PROVISIONS (ss 58-75)

[PCh148s58]58. Tax shown on an invoice

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 to whether—

- (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.

[s. 57]

[PCh148s59]59. Agents Act No. 2 of 1998 Sch.

(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.

(2) For the purposes of subsection (1) 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.

[s. 58]

[PCh148s60]60. VAT representatives

(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.

(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 to—

- (a) keep and preserve, or to produce, any records or accounts;
- (b) furnish a tax return; or
- (c) pay any tax return or interest under the Act; or
- (d) 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.

[s. 59]

[PCh148s61]61. Supplies by bankrupt or deceased, etc.

(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 subsection (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 subsection (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.

[s. 60]

[PCh148s62]62. Transfer of a going concern

(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 to—

(a) keep, preserve, or to produce records or accounts;

- (b) furnish a tax return; or
- (c) pay any tax or interest under the Act; or
- (d) 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 that the Commissioner determines otherwise and upon written request or 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.

[s. 61]

[PCh148s63]63. Advertised prices to include VAT

(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.

(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.

[s. 62]

[PCh148s64]64. Tax adjustments of contracts Act No. 11 of 2000 s. 42

Where, after the making of a contract for the supply of goods or services and before the goods are delivered or services are rendered—

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

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

[s. 63]

[PCh148s65]65. Priority of VAT debts in bankruptcy

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.

[s. 64]

[PCh148s66]66. Evidence by certificate

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,

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

[s. 65]

[PCh148s67]67. Schemes for obtaining undue tax benefits

(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 creating 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 benefits 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 provisions 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.

[s. 66]

[PCh148s68]68. Service of notices, etc.

(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.

[s. 67]

[PCh148s69]69. Regulations

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.

[s. 68]

[PCh148s70]70. Repayments and remissions

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.

[s. 69]

[PCh148s71]71. Transitional arrangements Acts Nos. 13 of 1976; 8 of 1998 s. 68

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

(2) Subject to the regulations made under this Act, and notwithstanding the repeal of the Sales Tax Act, 1976, the sales tax and part of excise duty 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 and part of excise duty paid on stock to be an input tax shall be provided for in the regulations to be made by the Minister.

[s. 70]

[PCh148s72]72. Repeal and savings Acts Nos. 13 of 1976, 2 of 1998 Sch.

(1) [Repeal of the Sales Tax Act, 1976.]

(2) The repeal of the Sales Tax Act, 1976, shall not affect any right, interest, title, power 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.

[s. 71]

[PCh148s73]73. Amendment of Cap. 105

[Amends the Hotel Levy Act.]

[s. 72]

[PCh148s74]74. Amendment of Cap. 104

[Amends of the Entertainment Tax Act.]

[s. 73]

[PCh148s75]75. Amendment of Cap. 189

[Amends of the Stamp Duty Act.]

[s. 74]

FIRST SCHEDULE

ZERO-RATED SUPPLIES Acts Nos. 8 of 1998 s. 69; 12 of 1999 s. 35; 10 of 2002 s. 7;

G.Ns. Nos. 24 of 1999; 18 of 2002 s. 53

(Section 9)

1. Exportation of goods and 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 consumptions or duty free sale on aircraft or ships on journeys to destinations outside the United Republic of Tanzania.

NOTES:

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, goods are delivered to or made available at an address outside the United Republic of Tanzania as evidenced by documentary proof accepted 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 to the Commissioner.

3. The supply which comprises of the transport of or any service ancillary to transport of or loading, unloading, wharfage, shore handling, storage, warehousing and handling, supplied in connection with goods in transit through the United Republic of Tanzania, whether such services are supplied directly or through an agent to a person who is not a resident of the United Republic of Tanzania.

4. The supply of services which comprise the handling, parking, pilotage, salvage or towage of any foreign going ship or aircraft while in Tanzania Mainland.

5. The supply of services which comprise the repair, maintenance, insuring, broking or management of any foreign going ship or aircraft.

6. [Deleted by Act No. 10 of 2002 s. 7.]

7. The supply of agricultural produce intended for export by cooperative unions and community based societies registered with the Tanzania Revenue Authority.

SECOND SCHEDULE

EXEMPT SUPPLIES AND IMPORTS Acts Nos. 2 of 1998 Sch.; 8 of 1998 s. 70; 12 of 1999 s. 36; G.N. No. 24 of 1999; Acts Nos. 11 of 2000 s. 43; 14 of 2001 s. 29; 10 of 2002 s. 8

(Section 10)

1. Food, crops 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 produce prescribed by the Minister by regulations.

(3) Unprocessed dairy products - cow's or goat's milk.

(4) Fish - all unprocessed fish, except shellfish, and ornamental fish.

(5) Unprocessed agricultural products - edible vegetables, fruits, nuts, bulbs and tubers, maize, wheat and other cereals, meal, flour, tobacco, cashewnuts, coffee, tea, pyrethrum, cotton, sisal, sugarcane, seeds and plants thereof.

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 regulations, and similar products which are necessary for use in agricultural purposes.

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) [Deleted by Act No. 2 of 1998 Sch.]

(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 veterinary medicines, drugs and equipment which have been approved by the Minister responsible for Health upon recommendation of the Pharmacy Board.

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

6. Books and newspapers

- (1) Books, booklets, maps or charts.
- (2) Newspapers, journals, magazines or periodicals.

7. Transport services

Transportation of persons, by any means of conveyance including air charter but not including taxi cabs, rental cars, boats or boat charters.

8. Housing and land

- (1) The sale or leased of an interest in land.
- (2) The sale of used or leased 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.
- (3) The provision of any loan, advance or credit.
- (4) The operation of any current, deposit or savings account.
- (5) The issue, allotment or transfer of ownership or equity or security such as shares in companies and members' interest in corporations and in participatory security such as unit trusts.
- (6) The issue, payment, collection or transfer of ownership of any note or order of payment, cheque or letter of credit.

(7) The issue, drawing, acceptance or transfer of ownership or a debt or security including debentures, mortgages, loans and other debts in money.

(8) The supply or importation of currencies and travellers cheques to a registered bank, bureau de change and other financial institutions.

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.

12. Aviation spirit

Aviation spirit.

13. Agricultural implements

Tractors for agricultural use, planters, harrows, combine harvesters, fertilizer distributors, liquid or powder sprayers for agriculture, spades, shovels, mattocks, picks, hoes, forks and rakes, axes and other tools of a kind used in agriculture, horticulture or forestry.

14. Tourist services

Tourist guiding, game driving, water safaris, animal or bird watching, park fees and tourist charter services.

15. Postal supplies

The supply of postage stamps.

16. Aircraft

Aircraft, aircraft engines, parts and maintenance.

17. Fishing gear

(a) Fishing nets and accessories;

(b) outboat engines for fishing

18. Games of chance

The provision of the conducting of games of chance by means of private lotteries, casinos or slot or gaming machines.

19. Computers

The supply of computers, printers, parts and accessories connected thereto and specified cash registers.

20. Yarn

The provision or supply of local processed yarn.

21. Packing material

The supply of packing material to a registered milk producer or manufacturer.

THIRD SCHEDULE

SPECIAL RELIEFS Acts Nos. 2 of 1998 Sch.; 8 of 1998 s. 71; 12 of 1999 s. 37; 14 of 2001 s. 30; 10 of 2002 s. 8; 18 of 2002 s. 54

(Section 11)

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 importation of goods or services under a technical aid or donor funded agreement as far as that agreement provides for relief from taxation in the United Republic of Tanzania.

3. Travellers' or deceased's personal effects - Imported goods in respect of which relief of duty is available under Customs Laws.

4. [Deleted by Act No. 14 of 2001 s. 30.]

5. Supply of specified goods to the Armed Forces.

6. 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.

7. The supply to a registered veterinary practitioner of equipment designed solely for veterinary use.

8. Importation by a registered licenced drilling, mining, exploration or prospecting company of equipment to be used solely for drilling, mining, exploration or prospecting activities.

9. The supply of specified goods for sale in the Tanzania Defence Forces duty free shops.

10. (1) The importation or local purchase by or on behalf of a registered religious, charitable, community-based, or other non-profit driven organisation or institution, of goods or services intended to be used solely by the organisation or institution for—

- (a) in the case of a religious organisation, the advancement of religion;
- (b) use by the organisation or institution in question in the execution of its functions and for relieving persons from the effects of natural calamities, hazards or disaster;
- (c) the development, maintenance or renovation by the organisation of projects relating to health, education, training, water supply, infrastructure or any other projects relating to advancement of the community.

(2) The organization or institution shall before obtaining the relief granted under subitem (1), submit to the Revenue Authority a letter confirming the existence of the project or projects in question from the District Commissioner in its area and from the umbrella organisation, if any.

(3) The relief granted under this Act shall cease to have effect and the Value Added Tax shall become due and be payable as if this relief had not been granted if the said goods are transferred, sold or disposed of in any way to another person not entitled to enjoy similar privileges as are conferred under this Act.

11. The importation or supply to a charitable organisation holding special Agreement with the Government of the United Republic of goods specified in that Agreement providing for a relief from taxation.

12. The importation by or supply to any non-profit making community based educational organisation or institution of goods in respect of which the Permanent Secretary to the Treasury certifies that they are to be used solely for the purpose to the advancement of the community, education or similar project related to that organisation or institution.

13. The importation by or supply of goods or services to any public institution or organization other than Government agencies, which get subvention from the Government and whose establishing statute provides for relief from taxation.

14. The importation by or supply to the Red Cross Society of Tanganyika of goods or services which are solely to be used in the performance of its statutory functions.

15. The importation by or supply of goods or services to any institution or organisation holding a special Agreement with the Government of the United Republic of Tanzania or established under an Agreement to which the Government of the United Republic of Tanzania is a party so long as that agreement provides for relief from taxation.

16. The importation by or supply to any water and sewerage authority of goods or services which are solely to be used in the performance of its statutory function.

17. The importation by or supply of capital goods to an educational establishment registered by the Government.

18. The supply of raw and packaging materials to a registered manufacturer of pharmaceutical products and of spectacle lenses.

19. The importation by or supply of capital goods to an educational establishment registered by the Government.

20. The supply to the investor licensed under the Export Processing Zones Act * of goods and services for use as raw materials, equipment and machinery including all goods and services directly related to manufacturing in the Export Processing Zones, but shall not include motor vehicles, spare parts and consumables.